

Minneapolis City Planning Department Report Zoning Code Text Amendment

Date: February 24, 2003

Initiator Of Amendment: Council Member Schiff

Date of Introduction at City Council: February 15, 2002

Ward: All

Planning Staff And Phone: Jason Wittenberg, 673-2297

Intent Of The Ordinance: To codify a policy regarding refunding of zoning fees for applications that have been withdrawn or returned.

Appropriate Section(s) of the Zoning Code: Chapter 525

Background: This amendment would set policies related to the circumstances under which refunds for zoning application fees would be provided and whether a partial or full refund would be provided.

Purpose For The Amendment:

What is the reason for the amendment?

What problem is the amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The amendment would codify a new city policy regarding the refunding of zoning application fees for applications that are either withdrawn or returned to the applicant. Staff is proposing that the city retain a relatively modest minimum amount of \$50 of the total fees paid for the project. Fifty dollars would be retained for those applications where staff has spent a small amount of time on the application prior to withdrawal by the applicant. The proposed amendment would allow the city to retain a greater amount where it has been determined that the costs incurred by the city to process the application up to that point exceed \$50.

Note that zoning fees are administered within the context of state statute 462.353, subd. 4, which states the following:

“A municipality may prescribe fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control established pursuant to sections 462.351 to 462.364 or an application for a permit or other approval required under an official

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control established pursuant to those sections. Fees as prescribed must be by ordinance and must be fair, reasonable, and proportionate to the actual cost of the service for which the fee is imposed. A municipality shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

If a dispute arises over a specific fee imposed by a municipality related to a specific application, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal under section 462.361. An approved application may proceed as if the fee had been paid, pending a decision on the appeal.”

Current city practice is to refund all zoning application fees when an application is withdrawn or is deemed withdrawn and returned to the applicant pursuant to section 525.140. The only guidance currently provided in the zoning code related to refunding fees is in section 525.140, which states that a full refund will be provided in those instances where an application has been filed but has remained incomplete for a period of 30 days. The city’s current practice does not account for the often substantial amount of staff time and other expenses that have gone into working with an applicant and processing the application. In some cases, for example, applications have been withdrawn shortly before the public hearing is to take place, after several meetings with staff, mailing of a public notice, publication in Finance & Commerce, and the drafting of a staff report. In such instances, costs are incurred by the city that are not paid for by the applicant.

The amendment would serve a public purpose in that the city’s cost of providing service to applicants whose files are withdrawn will be recovered (in part or in full) through retention of a portion of the fees that were submitted. Thus the services provided to applicants who withdraw zoning applications would no longer be fully subsidized by the general public.

The Planning Department does not anticipate that the amendment would create problems. Although there is a potential for disagreement with applicants about the appropriate fee amount to be retained by the city when the zoning administrator exercises discretion to retain more than \$50, it is not feasible to draft a provision that would retain a fee that closely approximates the cost of the services that have been provided while satisfying applicants in every situation.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

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Retaining fees that reflect services the city has provided to individual zoning applicants is timely within the context of the city's current budget situation.

A Planning Department staff member contacted several area municipalities regarding their policies on refunding of application fees for incomplete and withdrawn applications. The following approaches are used by the selected municipalities:

- St. Paul. Refunds are based on administrative practice rather than through ordinance. The amount of the refund is commensurate with the amount of work that has been done on the application. The city does not accept incomplete applications.
- Bloomington. Refunds are based on administrative policy rather than through ordinance. The amount of the refund is commensurate with the amount of work that has been done on the application.
- Edina. Refunds are based on administrative policy rather than through ordinance. Once staff time is spent or the notice published, no refund is issued, subject to appeal to the city council.
- St. Louis Park. By ordinance, 75 percent of the application fee is refunded if the application is withdrawn prior to consideration by the planning commission.
- Minnetonka. Fees are not refundable. Decisions to retain the full fee may be appealed to the city council.
- Plymouth. Fees are refunded on a case-by-case basis and the amount depends on at what point in the process the fee was withdrawn. If the notice has been mailed and the staff report has been written, no refund is issued. The applicant can appeal to the city council the decision to withhold the refund.
- Mounds View. Refunds are based on administrative policy rather than through ordinance. The amount of the refund is commensurate the amount of work that has been done on the application.

If this zoning code amendment does not pass and the city does not add the proposed section 525.160(d), the city could develop an administrative policy related to the refunding of zoning application fees. However, if the proposed text deletion from section 525.140 does not pass, the city would remain obligated to issue a full refund in cases where applications are deemed withdrawn due to the fact that they have remained incomplete for 30 days.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The Planning Department is not aware of any conflict between the proposed amendment and the goals and policies of the *Minneapolis Plan*.

Recommendation Of The City Planning Department:

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The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and **approve** the text amendment.